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FISCAL IMPACT STATEMENT

LS 6702

BILL NUMBER: SB 469

NOTE PREPARED: Jan 10, 2003

BILL AMENDED:

SUBJECT: Pull Tabs and French Lick Riverboat.

FIRST AUTHOR: Sen. Lanane

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill authorizes the sale of pari-mutuel pull tabs at race tracks and satellite facilities. The bill also authorizes a riverboat casino for a historic district located in French Lick and West Baden Springs using the riverboat license formerly designated for Patoka Lake. The bill provides for the ownership and management of the riverboat.

Effective Date: July 1, 2003.

Explanation of State Expenditures: The Indiana Gaming Commission would incur additional administrative expenses relating to the licensing and regulation of gaming at the Orange County riverboat casino. As with the existing riverboat casinos, such administrative costs will be covered with revenue from investigation fees, license fees, and the Riverboat Wagering Tax. The bill also requires the Indiana Gaming Commission (IGC) to regulate and administer pari-mutuel pull tab operations. The IGC would incur additional administrative expenses as a result. However, the bill requires that the holder of a pull tab license or supplier's license bear the cost of any investigation by the IGC relating to the licensee. Also, the bill allows the IGC to impose an administrative fee on race track or satellite facility permit holders offering pull tab games in an amount that allows the IGC to recover the costs of administering pari-mutuel pull tabs.

Explanation of State Revenues: *Pari-Mutuel Pull Tabs:* The bill authorizes the sale of pari-mutuel pull tabs at Hoosier Park, the Marion County satellite facility operated by Hoosier Park, Indianapolis Downs, and a Marion County satellite facility operated by Indianapolis Downs. The bill limits the number of electronic pull tab terminals or devices that may be installed to 700 per facility. However, the bill does not impose any tax on pari-mutuel pull tab activities or receipts. It is estimated that annual pull tab wagering receipts from Hoosier Park could total \$101.3 M to \$170.5 M and \$69.1 M to \$110.1 M from Indianapolis Downs.

Caveats: The fiscal estimates are not adjusted to account for the potential negative effect that riverboat gaming operations may have on wagering at pari-mutuel pull tab facilities located in central Indiana. In addition, the fiscal estimates do not account for potential decline in Admission and Wagering Tax revenue at the riverboat casinos due to the pari-mutuel pull tab operations in central Indiana. These potential competitive impacts on the fiscal outcomes are indeterminable. It is also important to note that Indianapolis Downs has, at this time, not established a satellite facility in Marion County.

License Fees: The bill provides for a pari-mutuel pull tab license and a pari-mutuel pull tabs supplier's license. The initial pull tab license would be effective for 5 years. The annual renewal fee would be determined by the Indiana Gaming Commission. The annual fee for a supplier's license would be \$5,000. The bill requires a person to obtain a supplier's license to furnish pari-mutuel pull tab terminals or devices in Indiana. The license fee revenue will be minimal as there will be only two pull tabs licensees and the number of suppliers necessary to provide 2,800 pull tab terminals to four facilities is minimal.

Existing Pari-Mutuel Admission Tax: Revenue from the existing \$0.20 Pari-mutuel Admissions Tax could potentially increase if pari-mutuel pull tab sales serve to increase paid attendance to live horse racing at Hoosier Park. The total impact could potentially total \$52,000 to \$139,000 annually. Under current law, 50%, or \$26,000 to \$69,500, would be distributed to the state General Fund.

Fiscal Impact Details: The fiscal impact is based on a range of estimates of the number of patrons purchasing pull tabs at Hoosier Park and its Marion County satellite facility. The estimates are based on a range of patron growth rates observed at Iowa racing venues after the installation of slot machines in 1995. The base patron total for Hoosier Park live racing is the actual 2001 admissions. Base patron totals at Hoosier Park for simulcast racing and at Hoosier Park's Marion County satellite facility are imputed based on the actual 2001 wagering handle for each and the 2001 actual handle per patron at the Merrillville satellite facility. We adjust patronage at Hoosier Park's downtown Marion County satellite facility to account for the impact of tourism. The estimated Hoosier Park facility patronage totals are scaled down to estimate patronage for Indianapolis Downs. This is based on projections of gaming industry analysts relating to the relative scale of pull tab operations at facilities of both permit holders. It is assumed that AGR per patron equals \$65 to derive AGR totals for each permit holder.

Orange County Casino: A riverboat casino limited to 750 electronic gaming devices (EGDs) in Orange County is estimated to generate about \$7.6 M annually in additional revenue from the Riverboat Wagering Tax; and about \$1.45 M annually in additional revenue from the Riverboat Admission Tax. However, the bill does not provide for the distribution of this revenue. The revenue impact from the casino is not expected to begin before FY 2005.

Caveats: The fiscal estimates are not adjusted to account for the potential negative effect that competing riverboats (in particular, nearby riverboats Casino Aztar in Evansville and Caesars in Harrison County) may have on admissions and wagering at a casino located in Orange County. Thus, actual Admission and Wagering Tax revenue could potentially be less than estimated to the extent that an Orange County casino shares its market with other existing riverboat casinos. In addition, the fiscal estimates do not account for potential decline in Admission and Wagering Tax revenue from existing riverboats due to new casino operations in Orange County. These potential competitive impacts on the fiscal outcomes are indeterminable.

Background: The bill eliminates the Patoka Lake riverboat casino license and, instead, authorizes licensing a riverboat casino located in Orange County. The Orange County casino must be located within a historic district that consists solely of the real property owned by the historic resort hotels in French Lick and West

Baden Springs. The owner's license for the casino would be issued to the district which would be operated jointly by French Lick and West Baden Springs under a Historic Preservation Commission. The bill requires the Historic Preservation Commission to contract with a person holding an Operating Agent's License (created by the bill) to operate and manage the casino. The Operating Agent's License would be issued by the Indiana Gaming Commission only for purposes of the management and operation of the Orange County casino. The bill provides that the net income from the operation of the casino is to be deposited in a Community Trust Fund administered by the Historic Preservation Commission.

The bill requires the Orange County casino to implement flexible scheduling and limits the casino to a total of 750 electronic gaming devices (EGDs), with no limit placed on table games. Under current law, unchanged by the bill, the Orange County casino would be subject to the Admission Tax and Wagering Tax applying to riverboat casinos implementing flexible scheduling. However, the bill does not provide for the distribution of Admission and Wagering Tax revenue collected from the Orange County casino. Thus, the Orange County casino must pay the \$3 Admission Tax for each person admitted to the casino and the Wagering Tax according to the graduated scale specified in the table below.

Taxable Increment of Annual AGR	Tax Rate on Increment
\$25 M and under	15%
Over \$25 M up to \$50 M	20%
Over \$50 M up to \$75 M	25%
Over \$75 M up to \$150 M	30%
Over \$150 M	35%

Fiscal Impact Details: Admission and Wagering Tax estimates are based on annual adjusted gross wagering receipts (AGR) and turnstile admissions totals from FY 2000-FY 2002 at Casino Aztar in Evansville. Based on activity at Casino Aztar, annual AGR is estimated to be approximately \$110.0 M and annual turnstile admissions of \$1.2 M. These totals are scaled down as gaming industry analysts suggest that the actual scale of operations in Orange County could potentially be about 36% to 44.5% of operations at Casino Aztar. This is based on analysis indicating a maximum scale in Orange County consisting of approximately 500 to 600 electronic gaming devices. As a result, annual AGR is estimated at about \$40.0 M to \$49.0 M and annual turnstile admissions of about 432,000 to 534,000 for the Orange County operation. This yields an estimated \$6.7 M to \$8.5 M in Wagering Tax revenue and an estimated \$1.3 M to \$1.6 M in Admission Tax revenue. The midpoint of these ranges is used in presenting estimated revenue totals. The revenue impact is not expected to begin prior to FY 2005. This conclusion is based on the start-up times for the ten existing riverboat casinos, as well as the fact that the bill would require voters in French Lick and West Baden to pass a referendum allowing riverboat gambling in the county. It has taken an average of 17 months from the time the certificate of suitability was issued by the Gaming Commission for the ten existing riverboats to commence gaming operations. (The certificate of suitability is issued by the Gaming Commission to a person who has been chosen to receive a Riverboat Owner's License.)

The bill also would affect revenue to the state from the Occupational License Fee and would establish an Operating Agent's License Fee. The bill excludes the historic district from paying application and license fees relating to the Owner's License. Given that there are already a number of licensed supplier's operating in the state, supplier's licenses may not be affected by the bill. License fee revenue is distributed to the State

Gaming Fund. The Occupational License Fee is imposed on individuals employed in certain riverboat gambling occupations. The Application Fee is dependent on the type of license obtained, ranging from \$75 to \$1,000. The Annual License Fee is also dependent on the type of license obtained, ranging from \$25 to \$100. Revenue from the Application Fee totaled approximately \$975,000 in FY 2002; and revenue from the Annual License totaled about \$530,000 in FY 2002. There would be one operating agent licensed for the Orange County casino. The bill requires an application fee to be determined by the Gaming Commission for an Operating Agent's License. The initial license fee for an operating agent is \$25,000, with an annual renewal fee of \$5,000.

Penalties: The bill makes it a Class A misdemeanor for a person to knowingly or intentionally aid, induce, or cause a person less than 21 years of age and who is not an employee of a riverboat to enter or attempt to enter a riverboat. It also makes it a Class A misdemeanor for a person who is less than 21 years of age and who is not an employee of a riverboat to knowingly or intentionally enter or attempt to enter a riverboat.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Orange County Casino:* The bill prohibits the Indiana Gaming Commission from issuing an Owner's License for a casino in Orange County until voters in French Lick and West Baden Springs approve at a referendum gambling on riverboats in the county. The bill contains provisions allowing the referendum to be held at a primary, general, or special election.

The casino must be located in a historic district established under an interlocal agreement between French Lick and West Baden Springs. The district must consist of the real property owned by the historic resort hotels in French Lick and West Baden Springs. The bill requires a Historic Preservation Commission consisting of seven members to govern the operations of the District and to hold the Owner's License for the casino. The Commission is then required to contract with a person to manage the day-to-day operations of the casino.

The bill establishes a Community Trust Fund to include money disbursed from the Commission, donations, and interest and dividends on assets of the Fund. The Commission is required to manage and develop the Fund and its assets. The bill requires expenses of administering the Fund to be paid from the Fund. The Commission has the sole authority to allocate money from the Fund for: (1) the preservation, restoration, maintenance, operation, and development of the French Lick and West Baden Springs historic resort hotels; (2) infrastructure projects in the surrounding community; (3) historic preservation or restoration projects in the community; and (4) other projects designed to enhance the historic character of the community. Money allocated by the Commission from the Fund to the French Lick and West Baden Springs historic resort hotels must be in equal amounts.

The bill requires the Commission to hold public meetings and to keep a public record of its resolutions, proceedings, and actions. The Commission would be subject to laws relating to the deposit of public money and would have to deposit money under the advisory supervision of the State Board of Finance. The Commission also would be subject to examination by the State Board of Accounts.

Penalties: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. (See above under *Explanation of State Expenditures*.)

Explanation of Local Revenues: *Pari-mutuel Pull Tabs:* Revenue from the existing \$0.20 Pari-mutuel Admissions Tax could potentially increase if pari-mutuel pull tab sales serve to increase paid attendance to live horse racing at Hoosier Park. The total impact could potentially total \$52,000 to \$139,000 annually. Under current law, 50%, or \$26,000 to \$69,500, would be distributed in equal shares to Anderson and Madison County.

Orange County Casino: While the establishment of a riverboat casino in Orange County would increase revenue from the Riverboat Admission Tax and the Riverboat Wagering Tax, the bill does not provide for the distribution of such revenue to local units (see *Explanation of State Revenues* above for revenue estimates).

The bill does require, however, that the net income from the casino after operating expenses be deposited in the Community Trust Fund administered by the French Lick/West Baden Springs Historic Preservation Commission (see *Explanation of Local Expenditures* for description of the Trust Fund). Under the bill, “operating expenses” include certain Commission expenses and management fees paid to the operating agent. Currently, sufficient data is unavailable relating to typical casino profit margins. However, adjusted gross wagering receipts (total wagering receipts minus winnings paid to gamblers) of a casino in Orange County are estimated to total \$44.3 M annually. As a result, net gaming receipts after payment of winnings, wagering taxes, and admission taxes could total approximately \$35.2 M. (Presumably, the historic district would have no other federal, state, or local tax liability relating to the casino operation.) Remaining expenses that would reduce this total further would include capital and interest expenses relating to the casino property, personnel expenses, and management fees to the licensed operating agent hired to manage the casino. These costs are currently indeterminable.

Penalties: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members. (See above under *Explanation of State Expenditures*.)

State Agencies Affected: Indiana Gaming Commission, State Board of Finance, State Board of Accounts, Department of State Revenue, Indiana Horse Racing Commission.

Local Agencies Affected: French Lick, West Baden Springs, Trial courts, local law enforcement agencies.

Information Sources: *Monthly Summary of Wagering and Admission Tax*, Indiana Gaming Commission. Indiana Sheriffs Association, Department of Correction.

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